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Legislative History – Montana Session Law

Chapter: 14 Session L: 1993

Bill Number: SB 66

Checklist of Bill History

History and Final Status Sheet	☐
Introduced Bill	☐
Fiscal Note	☐
Third Reading Bill	☐
Final Version of Bill	☐

House	Senate
Committee: State Administration	Committee: State Administration
Hearing Date(s): 1/20/1993	Hearing Date(s): 1/11/1993
Committee Report: 1/21/1993	Committee Report: 1/11/1993

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: SK Marshall

Date: 2/11/2025

Notes: No exhibits, just committee reports and copies of the bill. Any audio recordings would be held by the Montana Historical Society.

Thank you!

3/26	SIGNED BY SPEAKER		
3/29	TRANSMITTED TO GOVERNOR		
3/31	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 250		
	EFFECTIVE DATE: 07/01/93		

SB 64 INTRODUCED BY DOHERTY

EXEMPT ATTORNEYS' EMPLOYEES FROM PROCESS SERVER REGISTRATION REQUIREMENTS

12/28	INTRODUCED		
1/02	REFERRED TO JUDICIARY		
1/04	FIRST READING		
1/04	FISCAL NOTE REQUESTED		
1/08	FISCAL NOTE RECEIVED		
1/08	FISCAL NOTE PRINTED		
1/12	HEARING		
1/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/15	2ND READING PASSED	48	1
1/16	3RD READING PASSED	47	0
	TRANSMITTED TO HOUSE		
1/18	FIRST READING		
1/18	REFERRED TO JUDICIARY		
1/22	HEARING		
1/27	TABLED IN COMMITTEE		

SB 65 INTRODUCED BY KEATING

REPEAL UNEMPLOYMENT INSURANCE ADMINISTRATIVE TAX

12/28	INTRODUCED		
1/02	REFERRED TO TAXATION		
1/04	FIRST READING		
1/04	FISCAL NOTE REQUESTED		
1/12	FISCAL NOTE RECEIVED		
1/13	FISCAL NOTE PRINTED		
1/14	TABLED IN COMMITTEE		

SB 66 INTRODUCED BY GROSFIELD

CLARIFY OFFENSES LEGISLATIVE AUDITOR REPORTS TO ATTORNEY GENERAL

BY REQUEST OF LEGISLATIVE AUDIT COMMITTEE

12/28	INTRODUCED		
1/02	REFERRED TO STATE ADMINISTRATION		
1/04	FIRST READING		
1/11	HEARING		
1/11	COMMITTEE REPORT—BILL PASSED		
1/12	2ND READING PASSED	49	0
1/13	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
1/14	FIRST READING		
1/14	REFERRED TO STATE ADMINISTRATION		
1/20	HEARING		
1/21	COMMITTEE REPORT—BILL CONCURRED		
1/23	2ND READING CONCURRED	95	0
1/26	3RD READING CONCURRED	96	0
	RETURNED TO SENATE		
1/30	SIGNED BY PRESIDENT		
2/01	SIGNED BY SPEAKER		
2/01	TRANSMITTED TO GOVERNOR		

2/03 SIGNED BY GOVERNOR
CHAPTER NUMBER 14
EFFECTIVE DATE: 10/01/93

SB 67 INTRODUCED BY YELLOWTAIL

REVISE LAWS CONCERNING POWERS AND DUTIES OF DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND DISPOSITION OF FEES FOR SOLID WASTE MANAGEMENT

BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

12/28	INTRODUCED		
1/02	REFERRED TO NATURAL RESOURCES		
1/04	FIRST READING		
1/08	HEARING		
1/14	COMMITTEE REPORT—BILL PASSED		
1/15	2ND READING PASSED	31	18
1/16	3RD READING PASSED	32	17
	TRANSMITTED TO HOUSE		
1/18	FIRST READING		
1/18	REFERRED TO NATURAL RESOURCES		
1/22	HEARING		
1/25	COMMITTEE REPORT—BILL CONCURRED		
1/27	2ND READING CONCURRED	80	18
1/29	3RD READING CONCURRED	83	13
	RETURNED TO SENATE		
2/05	SIGNED BY PRESIDENT		
2/09	SIGNED BY SPEAKER		
2/09	TRANSMITTED TO GOVERNOR		
2/13	RETURNED TO SENATE WITH GOVERNOR'S AMENDMENTS		
2/15	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
2/16	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
	TRANSMITTED TO HOUSE		
3/08	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	94	4
3/10	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	92	7
	RETURNED TO SENATE		
3/16	SIGNED BY PRESIDENT		
3/16	SIGNED BY SPEAKER		
3/17	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR CHAPTER NUMBER 145 EFFECTIVE DATE: 07/01/93		

SB 68 INTRODUCED BY BLAYLOCK

REMOVE TERMINATION OF GOVERNMENTAL TORT LIABILITY LIMITS

BY REQUEST OF DEPARTMENT OF ADMINISTRATION

12/28	INTRODUCED
1/02	REFERRED TO JUDICIARY
1/04	FIRST READING
1/04	FISCAL NOTE REQUESTED
1/08	FISCAL NOTE RECEIVED
1/11	FISCAL NOTE PRINTED
1/12	HEARING
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED

SENATE BILL NO. 66

INTRODUCED BY GROSFIELD
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

JANUARY 2, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 4, 1993	FIRST READING.
JANUARY 11, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 12, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 13, 1993	THIRD READING, PASSED. AYES, 48; NOES, 0.
	ENGROSSING REPORT.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 14, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
JANUARY 21, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
JANUARY 23, 1993	SECOND READING, CONCURRED IN.
JANUARY 26, 1993	THIRD READING, CONCURRED IN. AYES, 96; NOES, 0.
	RETURNED TO SENATE.

IN THE SENATE

JANUARY 27, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 66

INTRODUCED BY GROSFIELD

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE OFFENSES THAT THE LEGISLATIVE AUDITOR MAY REPORT TO THE ATTORNEY GENERAL; AND AMENDING SECTION 5-13-310, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-13-310, MCA, is amended to read:

"**5-13-310. Prosecution -- discipline of professionals.** (1) The attorney general shall conduct on behalf of the state all prosecutions for public offenses ~~disclosed by an audit of~~ involving a state agency ~~performed~~ that are reported to the attorney general by the legislative auditor.

(2) If the attorney general ~~shall decline such~~ declines the prosecution or ~~shall fail~~ fails to commence action on a public offense within a reasonable time, the county attorney of the appropriate county shall conduct on behalf of the state ~~such~~ the prosecution.

(3) In ~~any~~ an action taken by the attorney general or ~~any~~ a county attorney under this section, ~~wherein any~~ in which a professional person in the state of Montana is charged or may have engaged in unethical conduct, all records or certified copies of ~~such~~ the records, including investigative materials, ~~shall~~ must be turned over to the appropriate disciplinary authority ~~of his or her~~ for the profession immediately upon completion of the action."

-End-

SB 66
INTRODUCED BILL

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

SENATE BILL NO. 66

INTRODUCED BY GROSFIELD

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

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investigative materials, ~~shall~~ must be turned over to the appropriate disciplinary authority ~~of his or her~~ for the profession immediately upon completion of the action."

-End-

SB 66
SECOND READING

SENATE BILL NO. 66

INTRODUCED BY GROSFIELD

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE OFFENSES THAT THE LEGISLATIVE AUDITOR MAY REPORT TO THE ATTORNEY GENERAL; AND AMENDING SECTION 5-13-310, MCA."

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(3) In any an action taken by the attorney general or any a county attorney under this section, ~~wherein any~~ in which a professional person in the state of Montana is charged or may have engaged in unethical conduct, all records or certified copies of such the records, including investigative materials, ~~shall~~ must be turned over to the appropriate disciplinary authority ~~of his or her~~ for the profession immediately upon completion of the action."

-End-

SB 66

THIRD READING

SENATE BILL NO. 66

INTRODUCED BY GROSFIELD

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE OFFENSES THAT THE LEGISLATIVE AUDITOR MAY REPORT TO THE ATTORNEY GENERAL; AND AMENDING SECTION 5-13-310, MCA."

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-End-

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Eleanor Vaughn, on January 11, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. Eleanor Vaughn, Chair (D)
Sen. Jeff Weldon, Vice Chair (D)
Sen. Jim Burnett (R)
Sen. Harry Fritz (D)
Sen. John Hertel (R)
Sen. Bob Hockett (D)
Sen. Bob Pipinich (D)
Sen. Bernie Swift (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Council
Deborah Stanton, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 66, SJR 8
Executive Action: SB 66

HEARING ON SB 66

Opening Statement by Sponsor:

Sen. Grosfield, Senate District 21, presented SB 66, at the request of the Legislative Auditor. SB 66 would clarify offenses the Legislative Auditor reports to the Attorney General. The section 5-13-310 that this amends states the Attorney General shall prosecute public offenses disclosed by an audit. Reports to the Auditor's office regarding something illegal going on are at times technically not yet disclosed by an audit. The bill would close the loophole that a defense attorney may define.

Proponents' Testimony:

John Connor, Assistant Attorney General, prosecutor in AG's office spoke in favor of this bill. "My job is to train County Attorneys and to provide trial assistance in cases where they have a conflict of interest or where they don't have the resources to prosecute the case. We also prosecute cases referred by the Legislative Auditor under this statute. It is the position of the Attorney General's office that this does clear up an ambiguity in the law that requires the Legislative Auditor to actually be involved in an audit when something is referred to us before we have any authority to act. If that is the case, under the current law the Attorney General cannot take action until such time as an audit is conducted later on even though something is brought to our attention initially. If an audit is not conducted it precludes us from becoming involved in the prosecution unless the County Attorney specifically requests us. The problem with that is there is a provision in the statute that says we have to charge when we are special prosecutors at the rate of $30.00 per hour. Sometimes these cases are complex and cross county lines so it does not make practical sense to have just one county attorney's office involved. The change this bill proposes would allow the Attorney General's Office to get in on the ground floor when something of a potentially illegal nature is brought to the attention of the Legislative Auditor. As with past Attorney Generals, Attorney General Mazurek will refer the cases to the local prosecutor initially to see if he or she wants to handle the case. But in cases that are complex, normally the prosecutor wants to defer it and it would give the Attorney General's office the authority to get involved early on without having to charge the counties. It's a good bill and won't have much effect on current practices except allowing us to get involved earlier and clarifying our authority to act.

Scott Seacat, Legislative Auditor, gave an example of a situation. Technically the Office of Legislative Auditor was not involved in a Department of Livestock audit but there was a major fraud associated with a Livestock helicopter. There was a state employee who used state time and equipment and built a helicopter with state resources. They called in the Attorney General's office and did enough work to support a court order to go in and seize those assets. They were concerned that a state asset would literally "fly away." In that case a good defense attorney might say the Legislative Auditor's office did not do a full audit of the department and therefore did not have the authority to refer to the Attorney General. We did the most efficient thing possible and worked jointly with the investigators at the Attorney General's office. We worked together and put together the data and the audit work that they needed to support the court order to go in and seize the assets. Ultimately, the individual involved pled guilty and the state literally sold the asset and received restitution.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Pipinich asked Mr. Seacat if the helicopter was made on state land or a private place.

Mr. Seacat said the helicopter was made at a private place. The individual had a hangar in Colorado Gulch. He was ordering parts and equipment and having them delivered to Colorado Gulch.

Sen. Swift asked about the language in Section 2 which says if the state declines to prosecute within a reasonable time then the county shall pursue the case. It could involve a heavy impact on the county and the Assistant Attorney General made a comment that it wouldn't be very heavy but who's to say how much impact it would have.

Mr. Seacat answered that when the Legislative Auditor's office makes a referral to the Attorney General's office they do the criminal side of the case and when appropriate a referral is made to local law enforcement. There has never been a problem with that. If the Legislative Auditor refers a case to the Attorney General's office and the Attorney General chooses not to investigate it, the Auditor has the authority to refer to local law enforcement.

Sen. Swift said the county attorney has to option to refuse it.

Mr. Seacat said the county attorney could not initiate prosecution and that has happened in cases. The Legislative Auditor does not pick and choose what to refer or what not to refer based upon the potential for success of prosecution. Under the Audit Act if there is a potential penal violation we refer and it is up to the prosecutor to determine whether or not there is a case.

Sen. McClernan asked Mr. Seacat about discipline of professionals on line 11 and who the professionals are.

Mr. Seacat said it was existing law and under the audit act it means state employees.

Closing by Sponsor:

Sen. Grosfield explained that prosecutors at the county or the Attorney General level always have the discretion whether or not to proceed with the case. It is a fairly simple bill and he urged support.

HEARING ON SJR 8

Opening Statement by Sponsor:

Sen. Pipinich presented SJR 8 on behalf of Sen. Lynch. SJR 8 would require that acid-free, alkaline-based paper be used on all state documents. Sen. Lynch finished the presentation explaining SJR 8 would protect state documents.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Tveit asked Sen. Lynch why it was a Senate Joint Resolution instead of a bill.

Sen. Lynch said the Dept. of Administration was requested to adopt rules and the rules could be reviewed at a future date. The Department needs direction to come up with the adequate rules. The Department needs to determine which of the documents need to be put on acid-free paper.

Sen. Hockett asked about a fiscal note for this resolution.

Sen. Lynch said the cost is incidental.

Sen. Weldon asked if the Department of Administration has received notice of this resolution.

Sen. Lynch said on any resolution affecting a department it is the responsibility of the department to follow the legislation.

Closing by Sponsor:

Sen. Lynch said "I close."

EXECUTIVE ACTION ON SB 66

Motion: Sen. Fritz moved SB 66 DO PASS

Discussion:

Vote: Motion that SB 66 DO PASS CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 10: 45 a.m.

Senator Eleanor Vaughn
SENATOR ELEANOR VAUGHN, Chair

Deborah Stanton
DEBORAH STANTON, Secretary

EV/ds

ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 1-11-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett	✓		
Sen. Harry Fritz	✓		
Sen. John Hertel	✓		
Sen. Bob Hockett	✓		
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit	✓		
David Niss	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

January 11, 1993

MR. PRESIDENT:
We, your committee on State Administration having had under consideration Senate Joint Resolution No. 6 (first reading copy -- white), respectfully report that Senate Joint Resolution No. 6 be amended as follows and as so amended be adopted.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chair

That such amendments read:

1. Title, line 7.
Strike: "BY 50 PERCENT BY THE YEAR 2000"

2. Page 2, lines 2 and 3.
Following: "spending" on line 2
Strike: the remainder of line 2 through "2000" on line 3

-END-

___ Amd. Coord.
___ Sec. of Senate

SENATE STANDING COMMITTEE REPORT

January 11, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 66 (first reading copy -- white), respectfully report that Senate Bill No. 66 do pass.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chair

m Amd. Coord.
___ Sec. of Senate

DATE 1-11-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 66, SJR 8

Name	Representing	Bill No.	Check One Support	Oppose
John Connor	A.G.	66	✓	
Scott Seacat	Legislative Auditor	66	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIR, on January 20, 1993, at 9:06 a.m.

ROLL CALL

Members Present:

Rep. Dick Simpkins, Chair (R)
Rep. Wilbur Spring, Vice Chair (R)
Rep. Ervin Davis, Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Pat Galvin (D)
Rep. Bob Gervais (D)
Rep. Harriet Hayne (R)
Rep. Gary Mason (R)
Rep. Brad Molnar (R)
Rep. Bill Rehbein (R)
Rep. Sheila Rice (D)
Rep. Sam Rose (R)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Norm Wallin (R)

Members Excused: Rep. Squires

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Council
Dorothy Poulsen, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 159; HB 179; SB 66
Executive Action:	HB 107 (postponed); HB 159; HB 179 (amended); SB 66

HEARING ON HB 159

Opening Statement by Sponsor:

REP. BOB PAVLOVICH, House District 70, Butte, introduced HB 159 which revises the definition of "veteran" for the purpose of the veterans' public employment preference to include people in the

reserves who are called to duty for campaigns such as Operation Desert Shield and Operation Desert Storm. He closed by urging the committee to pass HB 159.

Proponents' Testimony:

Joe Brand, State Legislative Chairman, Veterans of Foreign Wars, Helena, supports HB 159.

Hal Manson, American Legion of Montana, favors HB 159. He noted that most of the Montanans involved in Desert Storm were from the reserve units of the armed forces.

George Poston, United Veterans Committee of Montana, supports the bill and expressed his hope that recognition of these veterans would occur in less than the 40 years it took for recognition of the Merchant Marines.

Dan Antonietti, Past Commander, Veterans of Foreign Wars, and past Director, Veterans Employment Training, U.S. Department of Labor, stated that reservists were called up by an act of Congress and deserved the slight advantage accorded by having preference for employment in the public sector.

John DenHerder endorsed HB 159.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. RICE referred to Page 4, lines 18-25, and asked why there was a requirement of 180 days of service in section (a) but not in section (b). **Mr. Antonietti** said that the reservists who served in Desert Storm served fewer than 180 days, but they were authorized to receive campaign badges for their service.

REP. MOLNAR asked **Mr. Antonietti** whether the criterion for "veteran" was authorization for a campaign ribbon. **Mr. Antonietti** affirmed, explaining that the campaign badge was recorded to show the campaign in which the medal had been earned. **REP. SIMPKINS** clarified that campaigns referred only to hostile actions.

REP. MOLNAR asked whether it would be more reasonable to pass a more general bill which included anyone who served during a hostile situation and received a campaign badge. **Mr. Antonietti** responded that HB 159 was drafted in response to federal legislation redefining veteran.

REP. SCHWINDEN asked **Mr. Antonietti** to explain how veteran's preference applied to the hiring process. **Mr. Antonietti** explained that when a scoring procedure was used during hiring,

veterans received an additional 5% of the total score; disabled veterans received an additional 10%. Also, if there is a reduction in force, then veterans have a preference for maintaining their positions, all other conditions being equal.

REP. SCHWINDEN clarified that there were no retirement or other financial benefits associated with the veterans' preference, and **Mr. Antonietti** concurred.

REP. BARNHART stated that she had voted against a similar bill in the last session because she considered it discriminatory against women seeking employment. She asked **Mr. Antonietti** whether women veterans would benefit from HB 159. He replied the bill would apply equally to both men and women veterans.

HEARING ON HB 179

Opening Statement by Sponsor:

REP. BILL RYAN, House District 38, Great Falls, introduced HB 179 which creates a committee to design a state memorial commemorating the survivors of the attack on Pearl Harbor. He stated that committee members would be appointed by the governor and serve on a volunteer basis. They would have the responsibility for designing, locating, and funding the memorial. **REP. RYAN** distributed a map showing possible locations for the memorial on the Capitol Complex. **EXHIBIT 1**

REP. RYAN also noted that an earlier house bill (HB 20) had proposed abolishing the capitol building and planning committee referred to on Page 2, line 13 of HB 179. He stated that if HB 20 passes, then HB 179 would need to be amended to be consistent.

Proponents' Testimony:

Edwin Johnson, Pearl Harbor survivor, supports HB 179.

George Poston, United Veterans Committee of Montana, stated that the memorial would show recognition of the Pearl Harbor survivors as well as remind younger generations of the disaster at Pearl Harbor. He urged passage of the legislation.

Hal Manson, American Legion of Montana, stated that the American Legion is in favor of HB 179 in order to keep the memory of the event alive and to prevent the lack of preparedness from leading to a repetition of a similar event.

Joe Brand, Veterans of Foreign Wars, also supported the legislation. He suggested that memorials help younger generations recognize the significance of events and recommended the memorial be placed conspicuously.

Dan Antonietti, veteran of World War II, strongly supported the proposed memorial.

John DenHerder, veteran, also endorsed HB 179.

REPS. GALVIN, GERVAIS, HAYNE, ROSE, and WALLIN all asked to be recognized as proponents of HB 179.

William Emerson, Secretary-Treasurer, Big Sky Chapter #1, Pearl Harbor Survivors Association, Great Falls, provided written testimony stating that 142 Montana citizens had applied for the 50-Year Commemorative medal authorized by Congress in 1991 for Pearl Harbor. He recommended that the memorial be placed in a highly visible location to perpetuate the memory of Pearl Harbor. **EXHIBIT 2**

Tom Parr, State Chairman, Pearl Harbor Survivors Association, reminded the committee that the memorial would be funded and located by the Pearl Harbor Survivors Association.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. MOLNAR asked whether HB 179 could be amended to give preference to Montana artists and foundries for the design and production of the memorial. **Mr. Emerson** was in favor of giving preference and stated that plans now under consideration had been produced by Montana Granite, Great Falls.

REP. GERVAIS stated that a few years ago a bill for the Native American Flag Circle had sought to have the circle designed by Native Americans. The limitation was rejected as discriminatory.

REP. DAVIS suggested that the proposed committee could decide who designed the memorial.

Closing by Sponsor:

REP. RYAN thanked the committee for the hearing and urged support of HB 179.

HEARING ON SB 66

Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, Senate District 5, Big Timber, introduced SB 66, by request of the legislative audit committee, which clarifies the offenses that the legislative auditor may report to the attorney general. **SEN. GROSFIELD** stated that the bill pertains to public offenses which are discovered by the legislative auditor's office but not necessarily through the

disclosure of an audit. He explained that currently there exists an unintended ambiguity in the law such that technically, an offense can be reported by the legislative auditor's office to the attorney general only if the offense is disclosed by an audit. Thus, if the legislative auditor's office were to discover an offense through an anonymous tip, for example, then the attorney general may not be able to use that information to prosecute. **SEN. GROSFIELD** stated that the intent of SB 66 is to close this loophole in the law.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony:

Peter Funk, Assistant Attorney General, stated that the Attorney General's Office sees no problem with the changes proposed by SB 66.

Scott Seacat, Legislative Auditor, presented the livestock helicopter fraud as an example of a situation in which technically the fraud was not discovered through an audit, but the legislative auditor's office gathered sufficient evidence for a criminal case. The changes in SB 66 would ratify the procedures used by the legislative auditor's office in working with the attorney general.

Questions From Committee Members and Responses:

REP. SPRING referred **Mr. Funk** to Page 1, line 16, and asked under what circumstances the attorney general would decline prosecution. **Mr. Funk** stated that generally the attorney general would automatically decline prosecution in deference to the county attorney. He said that the attorney general would prosecute only when so requested by the county attorney, for example, in cases of conflict of interest.

REP. MASON asked whether the county would then bear the cost of the prosecution. **Mr. Funk** stated that the prosecution costs are borne by the county attorney although some of the investigative costs are not.

REP. SIMPKINS referred **Mr. Funk** to the word "shall" on Page 1, line 19, and asked who was responsible for preparing charges. **Mr. Funk** responded that, as a practical matter, whoever prosecutes would file charges. He emphasized that this was not a legal requirement, but that generally an attorney does not operate on a complaint that someone else has filed.

REP. SIMPKINS persisted in whether "shall" required the county attorney to prosecute, regardless of the county attorney's view of the case. **Mr. Funk** responded that he did not believe that the

language eliminated the prosecutor's discretion to file or not file charges.

REP. BARNHART asked who was referred to as "professional person" on Page 1, line 23. **Mr. Seacat** stated that the term is interpreted as state employee. He added that in the case of major fraud, the state seeks restitution of costs incurred by the legislative auditor's office and the attorney general's office.

REP. SIMPKINS asked whether this type of prosecution fell under the state's criminal court reimbursement program. **Mr. Seacat** did not know.

Closing by Sponsor:

SEN. GROSFIELD stated that questions about the prosecutor's discretion had also arisen in the Senate, and they had received the same answer from the attorney general's office as **Mr. Funk** had given the committee. He concluded that **REP. PAVLOVICH** would carry SB 66 to the House.

EXECUTIVE ACTION ON SB 66

Motion/Vote: **REP. SPRING MOVED SB 66 BE CONCURRED IN.** Motion carried unanimously with **REP. SQUIRES** voting aye by proxy. **EXHIBIT 3**

EXECUTIVE ACTION ON HB 107

Scott Seacat, Legislative Auditor, stated that HB 107, as presented by **REP. COBB**, would take the sunrise audit function from the legislative auditor's office and move it to the administrative code committee. Having spoken to **REP. COBB**, **Mr. Seacat** suggested that one other alternative would be to repeal the sunrise audit law. **Mr. Seacat** explained that under current law, occupational groups are required to pay $1,000 to the legislative audit committee, submit an application, and go through a hearing process. If the groups do not follow this procedure, then the committees are prohibited from reporting the bills out. **Mr. Seacat** expressed his personal doubt about the constitutionality of this procedure. He acknowledged, however, that the sunrise laws existed because of the legislature's frustration with the number of bills proposed for professional boards.

REP. SIMPKINS stated that the question was whether the sunrise bill accomplished its intent. He considered the answer to be no because if the procedure is not followed, bills are introduced as exceptions.

Sheri Heffelfinger described a proposed amendment which would eliminate the requirement to conduct sunrise audits. **EXHIBIT 4**

REP. RICE stated that the proposed amendment substantially changes the meaning of the bill and asked that action on the bill be delayed. She noted that one benefit of the sunrise audits was to encourage the early submission of bills.

REP. BARNHART stated that she had not requested the amendment (as was indicated on the amendment). **Ms. Heffelfinger** reported that **REP. HAYNE** had requested the amendment.

REP. SIMPKINS postponed action on HB 107.

EXECUTIVE ACTION ON HB 159

Motion/Vote: **REP. MASON MOVED HB 159 DO PASS.** The motion carried unanimously with **REPS. SQUIRES AND STOVALL** voting by proxy. **EXHIBITS 3 AND 5**

EXECUTIVE ACTION ON HB 179

Motion: **REP. GALVIN MOVED HB 179 DO PASS.**

Discussion:

Ms. Heffelfinger distributed an amendment to HB 179 which eliminated reference to the capitol building and planning committee, if HB 20 was passed and approved. She noted that the amendment would make HB 179 consistent with the conditions set by HB 20. **EXHIBIT 6**

Motion/Vote: **REP. HAYNE** moved to amend HB 179. Motion carried unanimously with **REPS. SQUIRES, STOVALL, AND ROSE** voting by proxy. **EXHIBITS 3, 5, 7**

Motion/Vote: **REP. GALVIN MOVED HB 179 DO PASS AS AMENDED.** Motion carried unanimously with **REPS SQUIRES, STOVALL, AND ROSE** voting by proxy. **EXHIBITS 3, 5, 7**

ADJOURNMENT

Adjournment: 10:08 a.m.

Dick Simpkins
DICK SIMPKINS, Chair

Dorothy Poulsen
DOROTHY POULSEN, Secretary

DS/DP

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL **DATE** 1/20/93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR	✓		
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS	✓		
REP. HARRIET HAYNE	✓		
REP GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN	✓		
REP. CAROLYN SQUIRES			✓
REP. JAY STOVALL	✓		
REP. NORM WALLIN	✓		

HOUSE STANDING COMMITTEE REPORT

January 20, 1993

Mr. Speaker: We, the committee on State Administration report that House Bill 159 (first reading copy -- white) do pass .

Signed: _____

Dick Simpkins, Chair

HOUSE STANDING COMMITTEE REPORT

January 20, 1993

Mr. Speaker: We, the committee on State Administration report that House Bill 179 (first reading copy -- white) do pass as amended .

Signed: _____

Dick Simpkins, Chair

And, that such amendments read:

1. Page 3.
Following: line 3
Insert: "NEW SECTION. Section 5. Coordination instruction. If House Bill No. 20 is passed and approved and if it abolishes the capitol building and planning committee, then the reference to "the capitol building and planning committee" in [section 2 (4) of this act] is changed to "the department of administration, in consultation with the Montana historical society"."

HOUSE STANDING COMMITTEE REPORT

January 20, 1993

Mr. Speaker: We, the committee on State Administration report that Senate Bill 66 (third reading copy -- blue) be concurred in .

Signed: _____
Dick Simpkins, Chair

Carried by: Rep. Pavlovich

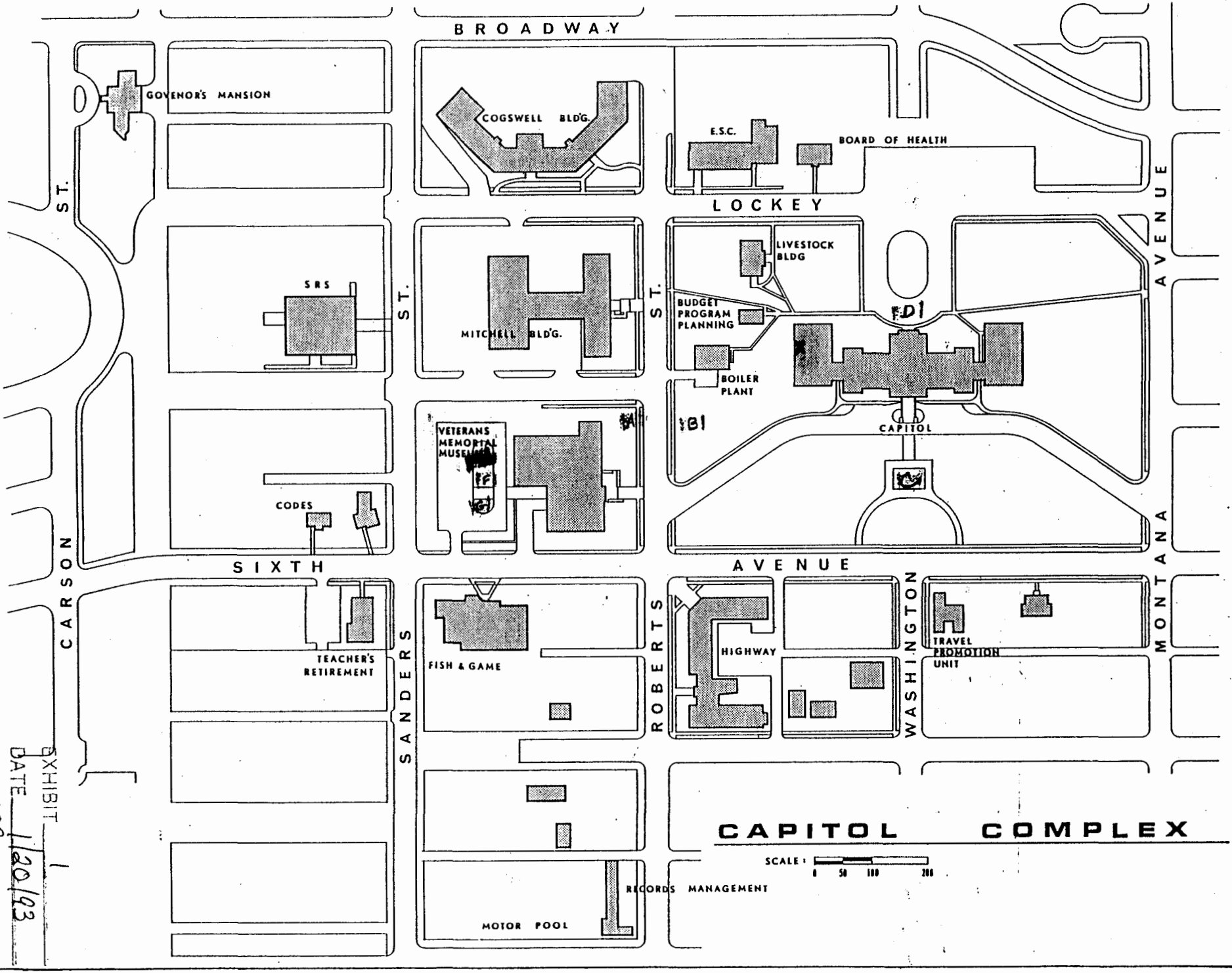

EXHIBIT 1
DATE 1/20/93
HB 179

Members of the Committee:

My name is William H. Emerson, I reside at 2122 Central Avenue West, Great Falls, Montana. I am a life member of the Pearl Harbor Survivors Association Inc and the elected Secretary-Treasurer of the Big Sky Chapter #1 of Montana.

The figures in this report are taken from the list of applications for the 50th year commemorative medal which was authorized by congress in 1991. I feel that the list is the most complete available at this time. It was provided by the Navy Department, the department of the government responsible for distribution of the medals.

The applications show that thirty-three (33) survivors are native Montanans. Seventy-seven (77) were born in other states and have since moved to Montana. A total of thirty-two (32) I do not have applications from (only a name listing from the Navy Department)and I cannot say whether these are natives of this state or not. Of these 142 medals awarded - 20 were applied for by a next of kin, indicating that the person had passed away.

The Big Sky Chapter, at its December 1992 meeting discussed the possibility of placing a memorial to the survivors of the attack on Hawaii on the State Capitol grounds. Quite a few Chapters in other states have now placed memorials to the survivors at various points in their states. We feel that a location in Helena will be better viewed by more people than at any other place. As our plans stand now, this would be a granite monument, suitably inscribed, with our prayer and logo in a prominent position.

EXHIBIT 2
DATE 1/20/93
HB 179

Pearl Harbor does not mean only Navy - it refers to the attack itself, which was directed at all U. S. military bases on the Island of Oahu on 7 December 1941. All members of the services, Navy, Army, Army Air Corps, Marines and Coast Guard who were on that Island, or within three miles of it between the hours of 0755 and 0945 on the 7th of December are eligible for membership in PHSA. It is to these men and to the 2335 who perished in the attack that our memorial would be dedicated.

I would like to thank the members of this committee for allowing me this time to address this subject. I hope that you can find in favor of this legislation.

Sincerely,

Wm. H. Emerson, Sec-Treas.
Big Sky Chapter #1, PHSA

MONTANA GRANITE INDUSTRIES

Dealers in

Selected Granite Monuments and Markers

1010 FIRST AVENUE SOUTH • GREAT FALLS, MT 59401

(406) 452-8129

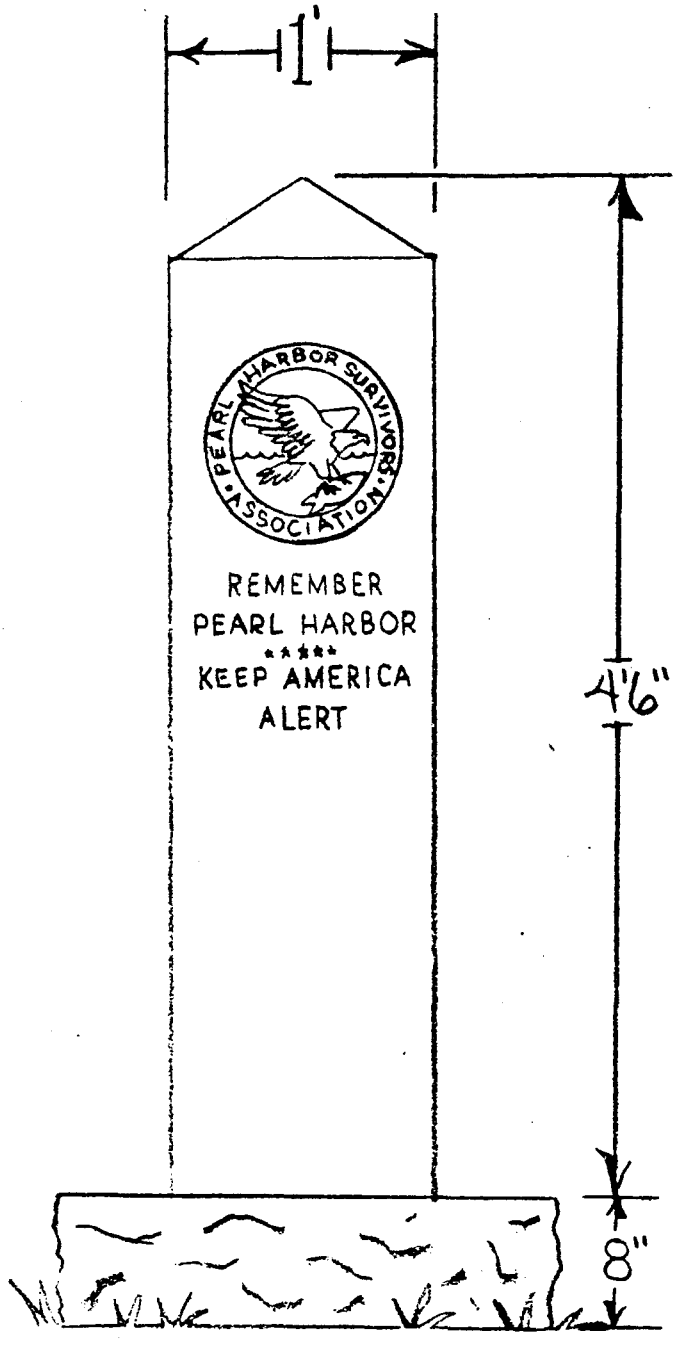

EXHIBIT 2

DATE 1/20/93

HB 179

3rd of 5

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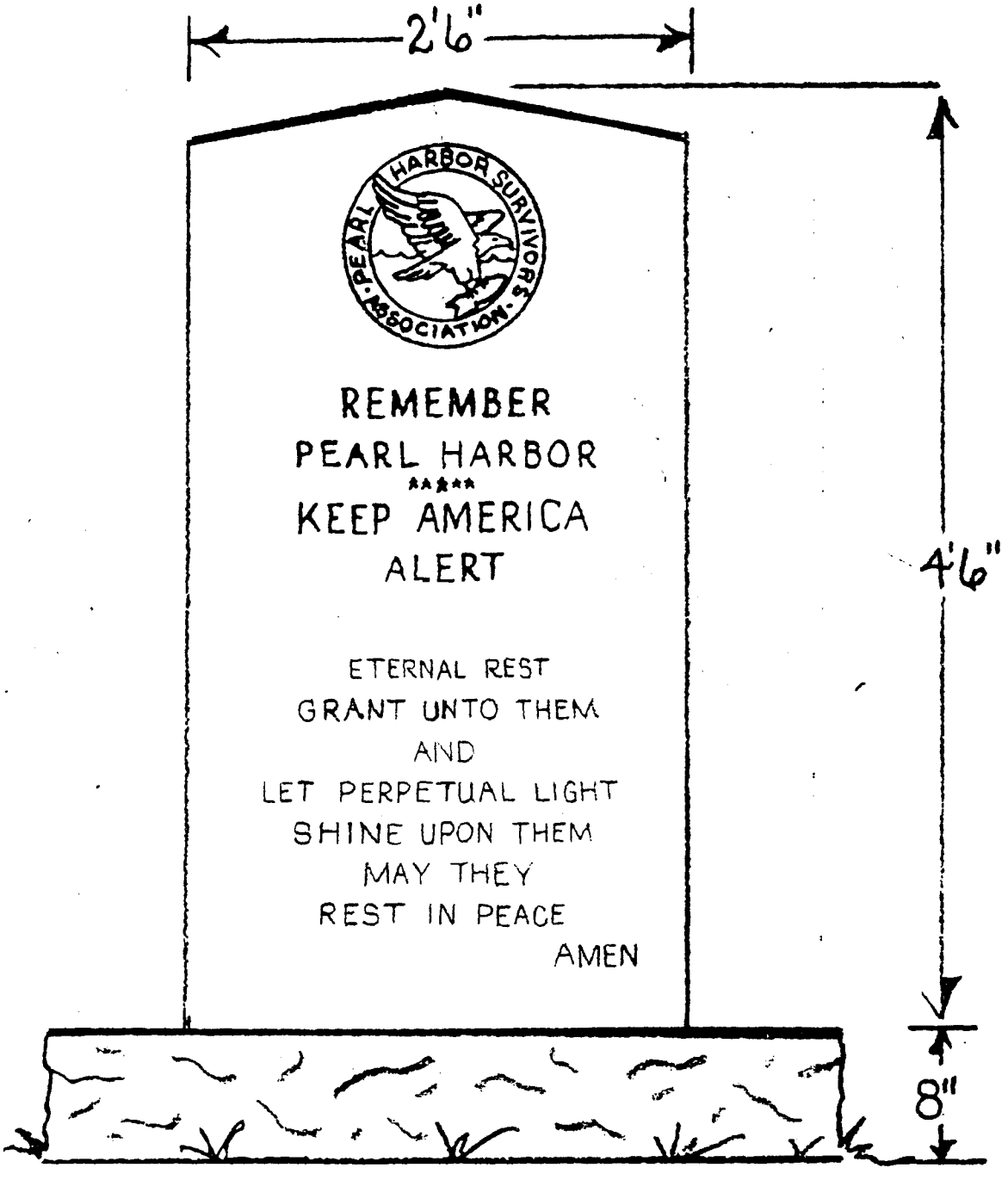

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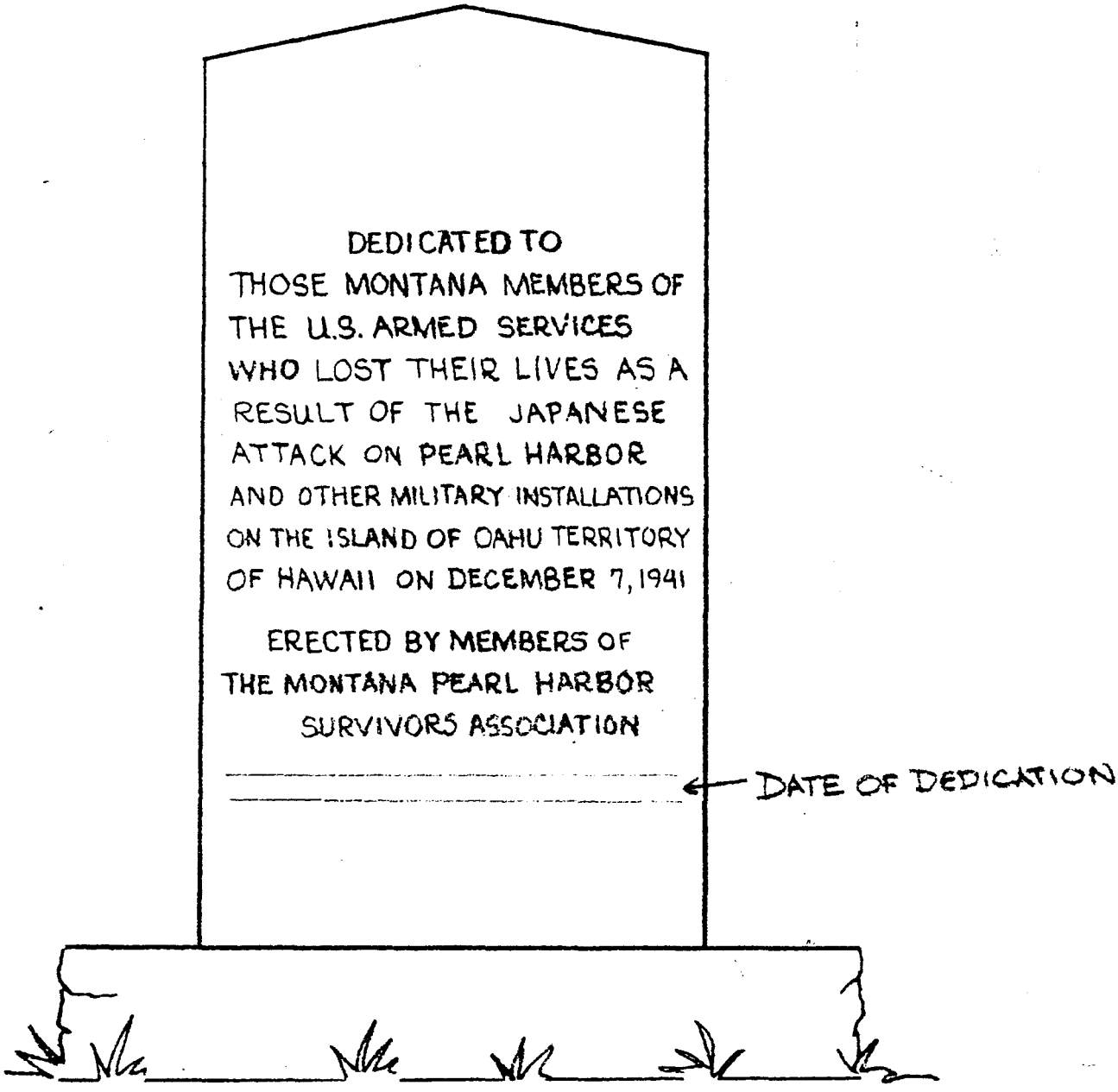
DEDICATED TO
THOSE MONTANA MEMBERS OF
THE U.S. ARMED SERVICES
WHO LOST THEIR LIVES AS A
RESULT OF THE JAPANESE
ATTACK ON PEARL HARBOR
AND OTHER MILITARY INSTALLATIONS
ON THE ISLAND OF OAHU TERRITORY
OF HAWAII ON DECEMBER 7, 1941
ERECTED BY MEMBERS OF
THE MONTANA PEARL HARBOR
SURVIVORS ASSOCIATION
DATE OF DEDICATION

EXHIBIT 2
DATE 1/20/93
HB 179

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

1/20/92

I give my Proxy to Beverly Barnhart on all votes re: bills or amendments & tabling —

Carolyn Squires

EXHIBIT 3
DATE 1/20/93
HB 159; HB 179; SB 66

Amendments to House Bill No. 107
First Reading Copy

Requested by Rep. ~~Beverly Barnhart~~
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
January 18, 1993

1. Title, lines 5 through 8.
Following: "AN ACT"
Strike: lines 5 through 8 in their entirety
Insert: "ELIMINATING THE REQUIREMENT TO CONDUCT SUNRISE AUDITS; AMENDING SECTION 5-11-210, MCA; AND REPEALING SECTIONS 2-8-201, 2-8-202, 2-8-203, 2-8-204, 2-8-205, 2-8-206, 2-8-207, 2-8-208, AND 5-4-207, MCA.""

2. Pages 1 through 3.
Strike: everything following the enacting clause
Insert: "**Section 1.** Section 5-11-210, MCA, is amended to read:
"**5-11-210. Clearinghouse for reports to legislature.** (1) For the purposes of this section, "report" means:

(a) a document required to be prepared for the legislature as required in any of the sections listed in subsection (10); and

(b) unless otherwise provided by law, any other report required by law to be given to or filed with the legislature.

(2) On or before September 1 of each year preceding the convening of a regular session of the legislature, an entity required to report to the legislature shall provide, in writing, to the executive director of the legislative council:

(a) the final title of the report;

(b) an abstract or description of the contents of the report, not to exceed one page;

(c) a recommendation on how many copies of the report should be provided to the legislature;

(d) the reasons why the number of copies recommended is, in the opinion of the reporting entity, the appropriate number of copies;

(e) an estimated cost for each copy of the report; and

(f) the date on which the entity will deliver the final, published copies of the report to the legislature.

(3) After considering all of the information available about the report, including the number of legislators requesting copies of the report pursuant to subsection (7), the legislative council or the executive director shall, in writing, direct the reporting entity to provide a specific number of copies. The number of copies required is at the sole discretion of the legislative council. The legislative council or the executive director may require the reporting entity to mail the copies of the report.

(4) The legislative council may require that the report be

EXHIBIT 4
DATE 1/20/93
HB 107

submitted in an electronic format useable on the legislature's current computer hardware, in a microform, such as microfilm or microfiche, or in a CD-ROM format, meaning compact disc read-only memory.

(5) Costs of preparing and distributing a report to the legislature, including writing, printing, postage, distribution, and all other costs, accrue to the reporting agency. Costs incurred in meeting the requirements of this section may not accrue to the legislative council.

(6) The executive director of the legislative council shall cause to be prepared a list of all reports required to be presented to the legislature from the list of titles received under subsection (2).

(7) The executive director shall, as soon as possible following a general election, mail to each holdover senator, senator-elect, and representative-elect a list of the titles of the reports, along with the abstracts prepared pursuant to subsection (2)(b), available from the legislative council. The list must include a form on which each member or member-elect receiving the list may indicate the report or reports that the member or member-elect would like to receive.

(8) The executive director or the legislative council shall make copies of reports requested pursuant to subsection (7) available to those members or members-elect by either requiring that copies be mailed pursuant to subsection (3) or by delivering copies of the reports during the first week of the legislative session.

(9) The executive director of the legislative council may keep as many copies of a report as he considers necessary, and copies of the report may be discarded at his discretion.

(10) (a) A report to the legislature includes a report required to be made by a board, bureau, commission, committee, council, department, division, fund, authority, or officer of the state or a local government in 1-11-204, 2-4-411, 2-7-104, 2-8-112, ~~2-8-203, 2-8-207, 2-8-208,~~ 2-15-2021, 2-18-209, 2-18-811, 2-18-1103, 3-1-702, 3-1-1126, 5-5-216, 5-13-304, 5-17-103, 5-18-203, 5-19-108, 10-4-102, 15-1-205, 17-4-107, 17-5-1650, 18-7-303, 19-4-201, 20-9-346, 20-25-236, 20-25-301, 22-3-107, 23-7-203, 33-22-1513, 37-1-106, 39-6-101, 39-51-407, 44-2-304, 44-13-103, 46-23-316, 53-2-1107, 53-6-110, 53-20-104, 53-21-104, 53-24-204, 53-24-210, 53-30-133, 69-1-404, 72-16-202, 75-1-203, 75-1-1101, 75-7-304, 75-10-533, 75-10-704, 76-11-203, 76-12-109, 80-7-713, 80-12-402, 82-11-161, 85-1-621, 85-2-105, 87-2-724, 87-5-123, 90-3-203, or 90-4-111.

(b) The procedure outlined in this section may also be used for a report required to be made to the legislature under the Multistate Tax Compact contained in 15-1-601, the Vehicle Equipment Safety Compact contained in 61-2-201, the Multistate Highway Transportation Agreement contained in 61-10-1101, or the Western Interstate Nuclear Compact contained in 90-5-201."

NEW SECTION. **Section 2. {standard} Repealer.** Sections 2-8-201, 2-8-202, 2-8-203, 2-8-204, 2-8-205, 2-8-206, 2-8-207, 2-8-208, and 5-4-207, MCA, are repealed."

Proxy to vote yes on HB159 and HB179. Given to Rep. Harriet Hayne.

1-20

Jay Stovall

EXHIBIT 5
DATE 1/20/93
HB 159 & HB 179

Amendments to House Bill No. 179
First Reading Copy

For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
January 20, 1993

1. Page 3.
Following: line 3
Insert: "NEW SECTION. **Section 5. Coordination instruction.** If House Bill No. 20 is passed and approved and if it abolishes the capitol building and planning committee, then the reference to "the capitol building and planning committee" in [section 2 (4) of this act] is changed to "the department of administration, in consultation with the Montana historical society"."

EXHIBIT 6
DATE 1/20/93
HB 179

1/20/93

To Whom It May Concern:

Chr. Rep Simpkins has my proxy.

John Dan Ross

EXHIBIT 7
DATE 1/20/93
HB 179

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 159

DATE 1/20/93 SPONSOR(S) Rep Pavlovich

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Hal Manson	American Legion	✓	
George Poston	United Veterans Committee	✓	
Dan Antonietti	Self	✓	
Don Brand	Veterans of Foreign Wars	✓	
Judi VanDinter	Not Self	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 179

DATE 1/20/93 SPONSOR(S) Rep Ryan

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Hal Manson	American Legion	✓	
George Poston	United Veterans Committee	✓	
[illegible]	Sponsor	✓	
Dan Antonietti	Self	✓	
[illegible]	Veterans of Foreign Wars	✓	
[illegible]	Pearl Hbr Vet.	✓	
[illegible]	Vet, Self	✓	
[illegible]	[illegible]	✓	
[illegible]	[illegible]	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. SB 66

DATE 1/20/93 SPONSOR(S) Senator Gosfield

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
SCOTT SEWRAT	LEGISLATIVE AUDITOR	✓	
Peter FINK	Attorney General's Off	✓	
John			
[illegible]	[illegible]	✓	
[illegible]	Administration		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.